

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

STATE OF NEW MEXICO, ex rel. STATE
ENGINEER,

Plaintiff,

v.

No. 66cv6639 MV/WPL

R. LEE AAMODT, et.al.,

Defendants,

and

UNITED STATES OF AMERICA,
PUEBLO DE NAMBE,
PUEBLO DE POJOAQUE,
PUEBLO DE SAN ILDEFONSO,
and PUEBLO DE TESUQUE,

Plaintiffs-in-Intervention.

**PROCEDURAL ORDER
FOR NOTICE BY PUBLICATION OF CLAIMS DEADLINE**

THIS MATTER came before the Court on the *Motion to Adopt Procedural Order for Notice by Publication* (Doc. No. 7900, July 15, 2013) filed by Plaintiff State of New Mexico, *ex rel.* State Engineer (“State”). The State’s Motion seeks entry of a Procedural Order to comply with the statutory requirements for providing notice to unknown persons not parties to this action of the final deadline for filing any and all unadjudicated claims for surface or ground water rights within the Nambe-Pojoaque-Tesuque (“NPT”) stream system. No responses opposing the State’s Motion have been filed. Having been fully advised in the premises, the Court finds as follows:

1. Adjudication of all individual water rights claims must be completed in order to comply with the Aamodt Litigation Settlement Act’s September 15, 2017 deadline for entry of a

final judgment and decree. Before a final judgment and decree are entered, the New Mexico adjudication statutes require that all unknown persons who may claim a right to use of the waters of the NPT stream system, and who were not previously joined in this proceeding and were omitted from the State's hydrographic survey, be given notice of their opportunity to appear, answer, or otherwise submit any statement of claim. *See* NMSA 1978, § 72-4-17 ("In any suit for determination of a right to use the waters of any stream system, all those whose claim to the use of such waters of record and all other claimants, so far as they can be ascertained with reasonable diligence, shall be made parties.").

2. The State proposes to comply with the statutory requirement for joinder of unknown parties by publishing the *Notice of Deadline for Unknown Claimants of Interest to File Water Rights Claims* ("Notice" or "State's Notice") attached as Exhibit 2 to the State's Motion. The Notice will provide notice by publication to unknown persons not parties to this adjudication of the final deadline for filing any and all claims for surface water or ground water rights within the NPT stream system that were not included in the 1964 hydrographic survey or were otherwise not adjudicated. As set forth in the Motion, the State proposes to serve notice of the deadline for filing such claims by publishing the Notice once a week for four consecutive weeks in the following newspapers of general circulation in the NPT stream system: The Albuquerque Journal, The Santa Fe New Mexican, and The Rio Grande Sun. The State also proposes a final claims deadline of forty-five (45) days after the last date of publication of the Notice with the specific date to be set forth in the Notice at the time of publication.

3. The State's Notice and proposed procedures for providing notice by publication are reasonably calculated, under all the circumstances, to apprise unknown persons not parties to this adjudication of the final deadline for filing any and all claims for surface or groundwater

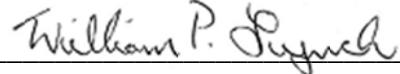
rights in the NPT stream system. *See Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 314 (1950).

Accordingly, and for good cause shown, the State's Motion is GRANTED.

IT IS THEREFORE ORDERED that within twenty (20) days following entry of this Order, the State shall commence publication of the State's Notice once a week for four consecutive weeks in the Albuquerque Journal, The Santa Fe New Mexican, and The Rio Grande Sun.

IT IS FURTHER ORDERED that the deadline to file claims as set forth in the Notice shall be forty-five (45) days after the last date of publication of the Notice.

IT IS FURTHER ORDERED that the *Stipulated Order Staying Further Proceedings Before the Special Master* (Doc. No. 5623; August 31, 2000) is amended and partially lifted for the adjudication of claims of unknown persons properly submitted in accordance with the State's Notice.



WILLIAM P. LYNCH
UNITED STATES MAGISTRATE JUDGE